

## DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF EMERGENCY RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to the authority set forth in sections 103(c)(2) and 105(c)(5) of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9, D.C. Official Code §§ 38-172 and 38-174) (“Act”), and Mayor’s Order 2007-186, dated August 10, 2007, hereby gives notice of her intent to adopt the following amendments to Chapter 21 of Title 5 of the District of Columbia Municipal Regulations (DCMR) in not less than 30 days after the date of publication of this notice in the *D.C. Register*. The purpose of the amendment is to clarify and standardize throughout the District the calculation of the area defined as “within a reasonable walking distance” to a particular school in order for a student to receive the “within a reasonable walking distance” preference in the out-of-boundary lottery process. With this new and standardized method of calculation, parents automatically will know whether this preference applies to their child when they input their address in the on-line application for the lottery.

There is an immediate need to preserve the public welfare through the clarification and standardization of the calculation of the area defined as “within a reasonable walking distance” to a particular school, before the beginning of the out-of-boundary transfers lottery process scheduled to begin on January 28, 2010. Identical proposed rules were published in the November 27, 2009 publication of the *D.C. Register*, and have gone through the 30 day notice and comment period without amendment. Pursuant to section 103(c)(2) of the Act, the proposed rules will be submitted to the Council of the District of Columbia for review and approval. The emergency rule will become effective immediately and remain in place for not longer than 120 days after the effective date, or until the proposed rule becomes final, whichever occurs first..

**Section 2106 of (Out-of-Boundary Transfers) of Title 5 DCMR (Education) is deleted and replaced with a new subsection 2106 in subtitle B of Title 5 to read as follows:**

**B 2106 OUT-OF-BOUNDARY TRANSFERS**

B 2106.1 Nothing in this Section shall be interpreted to:

- (a) Supersede a measure adopted by the Chancellor that is necessary to comply with Federal requirements related to the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, Title I of the No Child Left Behind Act, 20 U.S.C. §§ 6301 *et seq.*, or the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*; or
- (b) Require the displacement from his or her current school of any student attending a D.C. public school pursuant to an out-of-boundary transfer at the time this section becomes effective.

B 2106.2 An adult student, an emancipated student, or a minor student's parent or guardian may apply for an out-of-boundary transfer for any of the following reasons:

- (a) The student's sibling currently attends the requested school;
- (b) The student resides within a reasonable walking distance of the requested school as determined in accordance with § B2106.3; or
- (c) The adult student or minor student's parent or guardian prefers the requested school to his or her designated in-boundary school.

- B 2106.3 A student shall be deemed to reside within a reasonable walking distance of the requested school if his or her residence is located within the perimeter of a theoretical square, with a north-south orientation, in which the school is in the center and the sides of the square are three thousand (3000) feet for elementary and k-8 schools or five thousand (5000) feet for middle schools.
- B 2106.4 An application for an out-of-boundary transfer for the following school year shall be submitted through the formal application process which shall be defined and publicized by DCPS. An application shall be submitted no earlier than January 28<sup>th</sup> and no later than February 28<sup>th</sup> of the then-current school year and shall state the reasons for the request. The Chancellor or his/her designee shall send a response to any such request no later than March 31<sup>st</sup>.
- B 2106.5 In reviewing the request for out of boundary transfers, the Chancellor shall verify stated reasons for the request and fairly administer a lottery held in DCPS headquarters, giving preferences to students in accordance with the reasons for their transfer requests in the same order as those reasons appear in § 2106.2.
- B 2106.6 The Chancellor, and only the Chancellor, is authorized to grant a discretionary transfer and set the duration of the approval of the transfer when the Chancellor determines that the transfer would be in the best interests of the student, and that the transfer would promote the overall interests of the school system.
- B 2106.7 The Chancellor may designate a given school, program, or academy, including an early childhood school or program, as a specialized school, program or academy due to the unique academic character of the school, program or academy and the importance of matching children's needs and strengths to the mission of a school, program or academy. When applicable, the Chancellor shall determine admission criteria for any approved specialized school, program or academy for adoption by the Board.
- B 2106.8 Each year, the Chancellor shall inform all DCPS students and parents of the availability of all DCPS specialized schools, programs and academies.

- B 2106.9 Students applying to specialized schools, programs or academies must meet the specific criteria established for the schools, programs or academies to which they are applying. Eligibility requirements and selection criteria shall be published and made available upon request to parents. When there are more students than there are available vacancies, students who are ranked equally on the selection criteria shall be selected by lottery.
- B 2106.10 The number of spaces available to students transferring from out of boundary schools shall be determined annually through a standardized process set forth by the Chancellor or designee. The number of vacancies and updated information about the application process shall be shared with parents and the public prior to the out-of-boundary transfer review period and in sufficient time to allow parents to make informed choices about school options for the coming academic year.
- B 2106.11 (a) Students who are admitted to schools outside the attendance zones established for their place of residence shall be entitled to attend these schools for the duration of their participation in the academic program except in the following circumstances:
- (1) If the student is involuntarily transferred pursuant to § 2107 or;
  - (2) If the students are admitted to specialized schools, programs, or academies and the students no longer meet the criteria established for the specialized schools, programs or academies.
- (b) A student who has been admitted to a school outside the attendance zone for his or her place of residence which has been designated as a feeder school by the Chancellor shall be entitled to attend the next-level school in the designated feeder pattern upon the student's completion of the program at the feeder school.
- B 2106.12 The Chancellor shall report annually on the impact of the implementation of §§ 2106.1 through 2106.5 by collecting data including, but not limited to:
- (a) The number of children seeking out of boundary transfers from each school and zip code; the school(s) and zip code to which they sought to transfer; and the priority category under which each applied;
  - (b) The number of out of boundary applicants admitted and in attendance in each school and zip code and the category under which each was admitted;

- (c) The number of students enrolled at each school pursuant to the No Child Left Behind Act who reside outside of the school's attendance zone; and
- (d) For students admitted pursuant to § 2106.3(d) above, a survey of parents to determine their reasons for seeking out of boundary transfer.

B 2106.13 [Repealed] 53 DCR 1542 (March 3, 2006)

B 2106.14 Parents shall be entitled to appeal the denial of eligibility through the student grievance procedure set forth in § 2405. Any such grievance shall be resolved prior to the commencement of the lottery process.

**DISTRICT OF COLUMBIA HOUSING AUTHORITY****EMERGENCY AND PROPOSED RULEMAKING****DISTRICT OF COLUMBIA HOUSING MUNICIPAL REGULATIONS**

The Board of Commissioners of the District of Columbia Housing Authority (“DCHA”) gives notice of adoption on an emergency basis of amendments to Chapter 95, Local Rent Supplement Program to add a new Section 9509: “Capital-Based Assistance Under the Local Rent Supplement Program.” These regulations are necessary to provide critically needed capital funds for existing projects with funding gaps. The funding will be used to expedite the construction or rehabilitation of housing units for extremely low-income households in the District of Columbia who are not currently housed and in need of permanent housing. The emergency adoption of these regulations will allow DCHA to provide the critical funding needed for these projects on an expedited basis so that families can be housed. Any delay in the adoption of these regulations would negatively impact the timing for disbursement of funds for these projects.

The Board of Commissioners of DCHA also gives notice of intent to take final rulemaking action to adopt these regulations as final in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These emergency rules will remain in effect for up to one hundred twenty (120) days from the date of adoption or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

**9509 CAPITAL-BASED ASSISTANCE UNDER THE LOCAL RENT SUPPLEMENT PROGRAM (LRSP)****9509 LRSP Capital-Based Assistance**

9509.1 The Fiscal Year 2010 Budget Support Second Emergency Act of 2009 provides for the establishment of capital-based assistance under LRSP in order to provide capital improvement or construction grants to project-based and sponsor-based owners who were previously awarded operating subsidy under the LRSP. The regulations set forth in this Section 9509 shall govern the funds to be awarded, the eligibility criteria and implementation of the capital-based assistance.

9509.2 The purpose of the LRSP capital-based assistance is to provide capital-gap financing for the construction or capital rehabilitation of housing units of owners or sponsors who DCHA previously awarded project-based or sponsor-based operating subsidy under LRSP, and such owner or sponsor has been unable to complete the project due to a financing gap.

- 9509.3 In accordance with the LRSP, DCHA shall establish an operating reserve from funds remaining in the Rent Supplement Fund at the end of any fiscal year. Such LRSP operating reserve shall consist of the sum of the following:
- (a) such amount needed by DCHA to satisfy its current contractual obligations for project-based, sponsor-based, or tenant-based assistance under the LRSP;
  - (b) such amount needed by DCHA to satisfy rent increase adjustments for DCHA's current contractual obligations for project-based, sponsor-based, or tenant-based assistance under the LRSP;
  - (c) an amount equal to \$5,880,000.00; and
  - (d) two (2) months of program payment obligations for its then current contractual obligations for project-based, sponsor-based and tenant-based assistance under the LRSP.
- 9509.4 The amount remaining in the Local Rent Supplement Fund after subtraction of the LRSP operating reserve as computed in Section 9509.3 shall be made available for capital-based construction or capital improvement grants allocated as further described in this Section 9509.
- 9509.5 The funding shall be distributed in the form of construction or capital improvement grants and shall only be used to fund LRSP-assisted units.
- 9509.6 In order to be eligible for capital- based assistance, projects must have been previously awarded LRSP sponsor-based or project-based operating assistance under LRSP, and such owner or sponsor has been unable to complete the project due to a financing gap.
- 9509.7 DCHA shall issue a request for proposals or other announcement to eligible sponsors and owners. The specific proposal requirements shall be set forth in the request for proposals or announcement.
- 9509.8 DCHA shall award funds to grantees that compete effectively on the following factors to achieve the following objectives of the LRSP and the announcement:
- (a) Speed at which units are completed and made ready for occupancy;
  - (b) Least amount of capital-based assistance requested per LRSP-assisted unit;
  - (c) Demonstrated ability to complete the Project, including but not limited to financial feasibility and the Housing Provider's experience, knowledge and capacity; and
  - (d) Such other factors as are set forth in the request for proposals or announcement.
- 9509.9 DCHA shall rate and rank the proposals received and award the capital- based assistance based on such factors.

9509.10 For each fiscal year, DCHA may issue subsequent announcements for capital-based assistance if all funds are not awarded in the initial offering to previous awardees of project- based and sponsor- based assistance.

9509.11 Each award recipient shall execute all required DCHA grant documents and any such other documents related thereto as required by DCHA for the capital-based assistance. The documents shall provide that the funds shall be disbursed on a construction draw basis and monitored by DCHA, or such other party designated by DCHA.

All persons desiring to comment on the proposed rulemaking should file comments, in writing, to the Office of General Counsel, District of Columbia Housing Authority, 1133 North Capitol NE, Suite 210, Washington, D.C. 20002, Attention: Andrea L. Powell, Esq. Comments on the proposed rulemaking must be received no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be obtained at the same address.